

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 05-10528-RCL

DENISE M. BARRY; JANE B. GREEN;
ELIZABETH H. GOLDEN; PATRICIA J.
MCDONOUGH; ELAINE MESITI, LILA
BROWN; MARY M. KANE, and JUDITH A.
KELLEY, individually and on behalf of all those
similarly situated,
Plaintiffs,

v.

ROBERT J. MORAN, PAUL A. CHRISTIAN,
RODERICK FRASER, Jr., WILLIAM
KESSLER, RONALD KEATING, JOSEPH
FINN, WILLIAM HITCHCOCK, CITY OF
BOSTON FIRE DEPARTMENT, and JOHN
and/or JANE DOES 1-50.
Defendants.

DEFENDANTS' MOTION TO DENY CLASS CERTIFICATION

Defendants Robert J. Moran; Ronald Keating; Paul A. Christian; Roderick Fraser, Jr.; William Kessler; Ronald Keating; Joseph Finn; William Hitchcock; and City Of Boston Fire Department, by and through their undersigned attorneys, hereby move for an order denying this cause be certified as a class action. This motion is made pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure. In support of their motion, Defendants assert that:

1. None of the named Plaintiffs or persons they allege that compose Plaintiffs class have been or are being subjected to unlawful political affiliation discrimination, or retaliation based thereon.

2. The class is not so numerous that joinder of all its members is impracticable. Fed. R. Civ. P. Rule 23(a)(1).

3. There are no questions of law or fact that are common to the putative class. Fed. R. Civ. P. Rule 23(a)(2).

4. The claims of the named Plaintiffs, who all seek to be named as class representatives, are not typical of the claims of the potential class. Fed. R. Civ. P. Rule 23(a)(3).

5. Plaintiffs and their attorney are unable to fairly and adequately represent the claims of the entire class. Fed. R. Civ. P. Rule 23(a)(4).

6. The claims alleged by the Plaintiffs are individual in nature and do not present common issues of fact or law that predominate. Fed. R. Civ. P. Rule 23(b)(3).

The Defendants include in support of this Motion the Defendants' Memorandum of Law in Opposition to the Plaintiffs' Motion for Class Certification and exhibits attached hereto.

Wherefore, Defendants pray that this action be denied class certification as it does not satisfy the requirements of Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

Respectfully submitted,

DEFENDANTS,
by their attorneys,

William F. Sinnott
Corporation Counsel

/s/ Scott C. Holmes

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Date: September 7, 2007